

have at least a one-half interest in one of the following:

- (i) Fee simple title to the real property;
- (ii) Lease of the real property for a fixed term which expires not less than six calendar months after the final maturity of the loan; or
- (iii) A properly recorded land installment contract for the purchase of the real property.

(2) To be eligible for a manufactured home improvement loan, the borrower shall have at least a one-half interest in the manufactured home, and the home must be the principal residence of the borrower.

(b) *Eligible use of the loan proceeds.* (1) The loan proceeds shall be used only for the purposes disclosed in the loan application. If the borrower plans to use a dealer or contractor to carry out the improvement work, the lender shall obtain a copy of a proposal or contract that describes in detail the work to be performed and the estimated or actual cost. If the borrower plans to carry out the improvement work without the services of a dealer or contractor, the borrower shall be required to furnish a detailed written description of the work to be performed, the materials to be furnished, and their estimated cost.

(2) The loan proceeds shall be used only to finance property improvements that substantially protect or improve the basic livability or utility of the property. The Secretary will establish a list of items and activities that may not be financed with the proceeds of any property improvement loan. If a lender has any doubt as to the eligibility of any item or activity, it shall request a specific ruling by the Secretary before making a loan.

(3) The loan proceeds shall only be used to finance property improvements that are started after loan approval, unless:

- (i) The prior approval of the Secretary is obtained for an exception to this requirement; or
- (ii) The property is located in a major disaster area declared by the President, and the lender determines that emergency action is needed to repair damage resulting from the disaster.

(c) *Special pre-application requirements.* (1) Where the proceeds are to be used for an historic preservation loan, the proposed improvements shall be reviewed and approved by the State Historic Preservation Officer (or other person authorized by the Secretary of the Interior to make such reviews) prior to making application for a loan. The purpose of the review is to determine that (i) the structure is an historic residential structure listed on the National Register of Historic Places or certified by the Secretary of the Interior as conforming with National Register criteria, and (ii) the proposed improvements comply with criteria set by the Secretary of the Interior for the preservation of historic structures.

(2) Where the proceeds are to be used for a fire safety equipment loan, the proposed improvements shall be reviewed and approved by the State or local agency having primary jurisdiction over the fire safety requirements of health care facilities prior to making application for a loan.

[50 FR 43523, Oct. 25, 1985, as amended at 56 FR 52430, Oct. 18, 1991; 61 FR 19797, May 2, 1996; 62 FR 65181, Dec. 10, 1997]

#### **§ 201.21 Manufactured home loan eligibility.**

(a) *Borrower eligibility.* To be eligible for a manufactured home loan (whether a manufactured home purchase loan, a manufactured home lot loan, or a combination loan), the borrower must become the owner of the particular property which is to be financed with such a loan. Where the loan involves a manufactured home which is classified as realty, ownership of the home must be in fee simple. Where the loan involves a manufactured home lot, ownership of the lot must be in fee simple, except where the lot consists of a share in a cooperative association which owns and operates a manufactured home park.

(b) *Eligible use of loan proceeds.* (1) The loan proceeds may be used for the purchase or refinancing of a manufactured home, a suitably developed lot on which to place a manufactured home already owned by the borrower, or a manufactured home and a suitably developed lot for the home in combination. The loan proceeds may also be

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used to refinance an existing manufactured home already owned by the borrower in connection with the purchase of a manufactured home lot, or to refinance a lot already owned by the borrower in connection with the purchase of a manufactured home. Where the proceeds are for a manufactured home purchase loan or combination loan, the home must be the borrower's principal residence. Where the proceeds are for a manufactured home lot loan, the borrower's manufactured home must be placed on the lot and occupied as the borrower's principal residence within six months after the date of the loan.

(2) A manufactured home financed with an insured loan under this part may be either:

(i) A new home, which is one that is purchased by the borrower within 18 months after the date of manufacture and has not been previously occupied; or

(ii) An existing home, which is one that does not meet the criteria for a new home. In order to be eligible for financing with an insured loan under this part, the manufactured home, its warranty and the site on which the home is placed must meet the requirements of paragraphs (c) through (e) of this section.

(3) The proceeds of a loan to purchase a new manufactured home or a new manufactured home and lot shall not be used to purchase furniture or wheels and axles, and the cost of these items shall not be included in the total principal obligation calculated under § 201.10 (b)(1) or (d)(1).

(4) The proceeds of a manufactured home purchase loan may be used for the purchase, construction or installation of a garage, carport, patio or other comparable appurtenance to the manufactured home, as stated in the retail purchase contract and as approved by the Secretary. The proceeds of a combination loan may be used for the purchase, construction or installation of a permanent foundation, garage, carport, patio or other comparable appurtenance to the manufactured home.

(5) The Secretary will establish a list of items and activities that may not be financed with the proceeds of any manufactured home loan. If a lender has any doubt as to the eligibility of any

item or activity, it shall request a specific ruling by the Secretary before making a loan.

(c) *Construction, transportation and installation requirements.* (1) The manufactured home shall be certified by the manufacturer under applicable criminal and civil penalties for fraud and misrepresentation to have been constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401-5426, so as to conform to all applicable Federal construction and safety standards, as evidenced by a label or tag affixed to the manufactured home in accordance with 24 CFR 3280.8.

(2) During any period of transportation from the factory to the borrower's homesite, the structural integrity of the manufactured home shall be maintained so that it will be livable and durable.

(3) The installation or erection of the manufactured home on the homesite shall comply with the manufacturer's requirements for anchoring, support, stability and maintenance. Any permanent foundation shall be constructed in accordance with the current edition of HUD's Permanent Foundations Guide for Manufactured Housing (HUD Handbook 4930.3).

(4) For any manufactured home purchase loan or combination loan involving a sale of the manufactured home by a dealer, the dealer shall inspect the manufactured home, as installed or erected on the homesite, for structural damage or other defects resulting from the transportation and installation of the home. The dealer shall also test the performance of the home's plumbing, mechanical and electrical systems to assure that they are fully operational.

(d) *Manufacturer's warranty requirements.* (1) To induce the Secretary to insure a title I loan under this part for the purchase of a new manufactured home and to induce a borrower to purchase such a home, the home manufacturer shall furnish the borrower with a written warranty, duly executed by an authorized representative of the manufacturer on a HUD-approved form. The warranty shall be provided without cost to the borrower. The effective date

of the warranty shall be the date of delivery of the manufactured home to the borrower, regardless of when the warranty was executed by the manufacturer or was delivered to the borrower.

(2) The warranty shall obligate the home manufacturer to take appropriate action to correct any nonconformity with the standards prescribed in paragraph (c)(1) of this section or any defects in materials or workmanship which become evident within one year after the date of delivery. This warranty shall be in addition to, and not in derogation of, all other rights and privileges which the borrower may have under any other law or instrument during such period or thereafter. A copy of the warranty shall be retained in the lender's loan file.

(3) Prior to making a loan involving a new manufactured home, the lender shall investigate whether the home manufacturer is substantially complying with its warranty obligations on other homes financed by the lender under any program. If the lender knows, because of consumer complaints, dealer comments or other information concerning the manufacturer received in the course of business, that consumers have complained about warranty performance, the lender shall ascertain whether such complaints have been resolved. The lender's findings shall be documented in the loan file. Such documentation may reference information or materials contained in other files of the lender, provided that the file contains a written certification signed by a responsible loan officer under applicable criminal and civil penalties for fraud and misrepresentation that the lender's findings are supported by such other information or materials.

(4) If the lender concludes under paragraph (d)(3) of this section that a manufacturer may not be honoring its warranties, the lender shall immediately notify the Secretary in writing, with documentation of the facts and circumstances.

*(e) Manufactured homesite standards.*

(1) To assure the suitability of the homesite, the manufactured home shall be placed on a leased site in a manufactured home park or on an individual manufactured home lot or other site

owned or leased by the borrower that meets the following standards. A manufactured home may be placed on a site within Indian trust or otherwise restricted lands if the borrower owns or leases the site, or if the borrower obtains written permission acceptable to the Secretary from the trustee or the tribal authority who controls the use of the site.

(2) The manufactured homesite shall be served by adequate public or community water and sewerage systems, unless appropriate local officials certify that either or both such systems are unavailable to provide an adequate level of service to the manufactured homesite. If either or both such systems are not available, the manufactured homesite shall comply with local or State minimum lot area requirements for the provision of onsite water supply and/or sewage disposal.

(3) When the manufactured home is to be placed on a leased site in a manufactured home park, the lender shall obtain certifications from the appropriate State or local government officials that the park complies with minimum standards relating to vehicular access, water supply, sewage disposal, utility connections, and other aspects of park development. Where minimum State and local standards for park development are not established or enforced, the lender shall obtain a certification from a registered civil engineer that the park meets minimum standards for park development prescribed by the Secretary.

(4) When the manufactured home is to be placed on an individual manufactured home lot or other site owned or leased by the borrower (or on an Indian land site under paragraph (e)(1) of this section), the lender shall obtain certifications from the appropriate local government officials that:

(i) The site complies with local zoning ordinances and regulations, if any;

(ii) Adequate vehicular access from a public right-of-way is available to the site;

(iii) Adequate water supply and sewage disposal facilities are available to or on the site; and

(iv) Any other minimum local standards and requirements for site suitability are met. Where minimum local

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standards for water supply and sewage disposal are not established or enforced, the lender shall obtain a certification from a registered civil engineer that the site meets minimum standards for water supply and sewage disposal prescribed by the Secretary.

(Approved by the Office of Management and Budget under control number 2502-0328)

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### § 201.22 Credit requirements for borrowers.

(a) *Credit application and review.* (1) Before making a loan insured under this part, the lender shall exercise prudence and diligence to determine whether the borrower and any co-maker or co-signer is solvent and an acceptable credit risk, with a reasonable ability to make payments on the loan obligation. All documentation supporting this determination and relating to the lender's review of the credit of the borrower and of any co-maker or co-signer shall be retained in the loan file.

(2) The lender shall obtain a separate dated credit application on a HUD-approved form, executed by the borrower and any co-maker or co-signer under applicable criminal and civil penalties for fraud and misrepresentation, for each loan made. The lender shall verify that the borrower's Social Security Number is valid, through such documentation as may be prescribed by the Secretary.

(3) The lender shall conduct a credit investigation based on the credit application, and shall obtain written verification of or otherwise document the current employment and current income of the borrower and any co-maker or co-signer. If the borrower or any co-maker or co-signer has changed employment within the past two years, the lender shall obtain written verification of or otherwise document the person's prior employment and prior income during the two-year period. If the borrower or any co-maker or co-signer was self-employed during any period of the previous two years, the lender shall obtain documentation

of the person's income during such period of self-employment.

(4) The lender shall also determine the total amount of the borrower's existing and proposed title I loans to ensure that the loan amounts in § 201.10 are not exceeded.

(5) As part of its credit investigation, the lender shall obtain a consumer credit report stating the credit accounts and payment history of the borrower and of any co-maker or co-signer. Subject to state or local law, the lender shall check with the inquirers concerning all credit inquiries reported within the previous 90 days to determine whether the borrower or the co-maker or co-signer has incurred debts not listed on the credit application. If a consumer credit report is not available or is incomplete, the loan file shall contain other documentation of the lender's diligent investigation of the credit of the borrower or of the co-maker or co-signer.

(6) If the consumer credit report does not contain the necessary information, the lender shall obtain written verification that the borrower is not over 30 days delinquent on any senior mortgages or deeds of trust on the property being improved with a property improvement loan.

(7) The lender shall verify, in such manner as the Secretary may prescribe, whether the borrower is in default or a claim has been paid in connection with any loan obligation owed to or insured or guaranteed by the Federal Government.

(8) For any loan with a total principal balance in excess of \$5,000, the lender shall obtain written verification of the source of all funds of the borrower required for the borrower's initial payment, if such payment will be in excess of five percent of the loan.

(9) Before making a final determination on the creditworthiness of the borrower, the lender shall conduct a face-to-face or telephone interview with the borrower and any co-maker or co-signer to resolve any discrepancies in the information on the credit application and to assure that the information is accurate and complete.

(10) After a thorough credit investigation and in the absence of information to the contrary, the lender may